

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JAMES LEE WATSON,)	
a.k.a., James William Lee Foster,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 05-CV-626-JHP-PJC
)	
STANLEY GLANZ; SCOTT WOODWARD;)	
MATT R. LOTSPEICH; STEVE SEWELL;)	
BOB DARBY,)	
)	
Defendants.)	

OPINION AND ORDER

On November 2, 2005, Plaintiff, a federal prisoner appearing *pro se*, submitted for filing a 42 U.S.C. § 1983 civil rights complaint (Dkt. # 1), and a motion for leave to proceed *in forma pauperis* (Dkt. # 2). By Order filed November 28, 2005 (Dkt. # 4), the Court directed Plaintiff to file both an amended motion to proceed *in forma pauperis* in compliance with 28 U.S.C. § 1915(a)(2) and an amended complaint in compliance with the Federal Rules of Civil Procedure. On December 29, 2005, Plaintiff filed an amended motion for leave to proceed *in forma pauperis* (Dkt. # 9). On January 13, 2006, Plaintiff filed an amended complaint (Dkt. # 10).

By Order filed November 9, 2006 (Dkt. # 14), the Court granted the motion for leave to proceed *in forma pauperis* and dismissed without prejudice Plaintiff's claims against Defendants Woodward, Sewell, and Lotspeich based on Heck v. Humphrey, 512 U.S. 477 (1994). The Court also dismissed with prejudice Plaintiff's claim against Defendant Glanz for failure to state a claim upon which relief may be granted. Plaintiff was advised that his due process and equal protection claims based on an alleged failure to investigate were subject to dismissal for failure to state a claim

upon which relief may be granted. However, Plaintiff was afforded the opportunity to file a second amended complaint to cure the deficiencies related to those claims. The Order established a deadline of December 11, 2006, for compliance. Plaintiff was advised that if he failed to file a second amended complaint by the specified deadline, this action would be dismissed in its entirety. See Dkt. # 14.

To date, Plaintiff has failed to file a second amended complaint as ordered by the Court. The deadline for compliance with the Court's Order has passed. Therefore, as a result of Plaintiff's failure to comply with the Court's Order filed November 9, 2006, Plaintiff's due process and equal protection claims based on an alleged failure to investigate, the only claims remaining in this action, shall be dismissed without prejudice.

ACCORDINGLY, IT IS HEREBY ORDERED that Plaintiff's due process and equal protection claims based on an alleged failure to investigate, the only claims remaining in this action, are **dismissed without prejudice** as a result of Plaintiff's failure to cure the deficiencies identified in the Court's Order filed November 9, 2006. This is a final Order terminating this action.

DATED THIS 20th day of December 2006.


James H. Payne
United States District Judge
Northern District of Oklahoma